

REMARKS

Claims 1-8 are currently pending for the Examiner's consideration, with claim 1 being the only independent claim. The Examiner has rejected claims 1-8 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 8, 32, 33, 35, 38, 48, and 49 of U.S. Patent No. 6,495,166 ("the '166 patent").

Filed herewith is a Terminal Disclaimer to Obviate a Double Patenting Rejection Over a "Prior" Patent executed by the assignee of the above-captioned application for the '166 patent. A Statement Under 37 C.F.R. § 3.73(b) establishing the right to act on behalf of the assignee with regard to the above-captioned application was previously filed on December 7, 2004. The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870 (Fed. Cir. 1991). The filing of a terminal disclaimer serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection. *Id.*; M.P.E.P. § 804.02. Based upon filing of the Terminal Disclaimer and accompanying fee, Applicants respectfully submit that the obviousness-type double patenting rejection should be withdrawn.

CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

By 

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